FARAD CONSTITUTION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE,
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3088/1997

Mr. Ratan N. Tata and others
...Versus...
State of Maharashtra through the Secretary, Ministry of Labour and Industry, Mantralaya, Mumbai - 400 032 and others

---

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's orders.	Court's or Judge's Orders

---

[Shri S.M. Puranik, Adv. for petitioners]
[Shri N.N. Thengre, Adv. for respdt. Nos.3 to 5]

CORAM:- A.B. CHAUDHARI, J.
DATED :- 08.08.2007.

This writ petition was admitted by this Court on 15.2.1999.

Advocate Shri Puranik for petitioners submits that in view of subsequent development, namely, pronouncement of judgment by the learned brother, B.P. Dharmadhikari, J. in the case of ***Empress Mills, Nagpur...Versus...Member, Industrial Court, Nagpur and others, reported in 2007 (I) Mh.L.J. 181***, this writ petition can be conveniently disposed of.

Heard Advocate Shri Thengre for respondent Nos.3 to 5.

Having gone through the judgment cited by Advocate Shri Puranik, it appears that this Court has quashed and set aside the declaration granted by the Judge, Second Labour Court, Nagpur on 28.2.1995 in B.I.R. Case Nos.45/86 and 38/1986. After quashing the said declaration, this Court then allowed the Maharashtra State Textile Corporation which has taken over the Empress Mills to participate in the proceedings after remand. That was done because the M.S.T.C. took over the Empress Mills by virtue of coming into force of the Central India Spinning, Weaving and Manufacturing Company Limited, the Empress Mills, Nagpur (Acquisition and Transfer of Undertaking) Nationalisation Act, 1986. Now based on the said declaration dated 28.2.1995, the Deputy Labour Commissioner, Nagpur issued communication, dated 3.6.1997, asking the petitioners i.e. erstwhile owners to make payment of salary for the period March 1986 to October 1986. The said communication indicated the amount of recovery to be paid by the petitioners. In the present petition, the said communication has been challenged and has been stayed.

Advocate Shri Puranik for petitioners then submits that in accordance with the provisions of the said Act, Commissioner of payments was already appointed and, therefore, Deputy Labour Commissioner, Nagpur acted sans

any jurisdiction. He, therefore, prayed for quashing the said communication.

Advocate Shri Thengre for respondent Nos.3 to 5 vehemently opposed the submissions made by Advocate Shri Puranik for petitioners and contended that the recovery certificate/recovery letter having been issued by the Deputy Commissioner of Labour, Nagpur the same ought to be paid to the workers and erstwhile owners cannot escape the liability.

Having heard Counsel for the rival parties and having considered the true and correct effect of the judgment delivered by brother, B.P. Dharmadhikari, J., to my mind, the proper course to be adopted would be to quash and set aside the communication, dated 3.6.1997, because the same was based on the earlier declaration, dated 28.2.1995, which itself has been quashed and set aside by the said judgment. The reason for quashing the said declaration is obviously, namely, M.S.T.C. has taken over the Empress Mills.

For all these reasons, therefore, this writ petition is allowed. The impugned communication dated 3.6.1997 (Annexure – C) as well as recovery certificate, dated 22.10.1997, are quashed and set aside. The respondents are, however, given liberty to participate in those

proceedings, namely, B.I.R. Case Nos.45/1986 and 38/1986, if so advised and if necessary.

Writ Petition is disposed of. No order as to costs.

JUDGE

ssw